

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3713 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPORAT- ION,

Versus

THE STATE OF GUJARAT NOTICE TO BE SERVED ON THE

Appearance:

MR MI PATEL for Petitioner
M/S PURNANAND & CO for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MS MAYA N BHAVNANI for Respondent No. 3
MR A. HAMEED KURESHI for Respondent No. 4
MR YS MANKAD for Respondent No. 5, 6, 7

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/06/1999

ORAL JUDGEMENT

In this petition under Art. 226 of the Constitution, Sardarnagar Municipality (which was constituted under Gujarat Municipalities Act, 1963 and which is now succeeded by the Ahmedabad Municipal

Corporation within the municipal limits of which the Sardarnagar Township has been included in or about 1986), has challenged the order dt.21/9/1980 (Annexure :I) passed by the Administrator of Sardnagar Township, calling upon the Municipality to demolish the Urinal constructed by the Municipality on the land which, according to the Municipality, is a part of public street, but according to the Administrator, it was the Government land, and therefore, the Administrator called upon the Municipality to hand over possession of the said land to the Administrator. According to the Administrator, the construction was put up on the Government land without permission of the Administrator of the Sardarnagar Township. The Municipality has also challenged the Notification dt. 15/10/1975 (Annexure : M to the petition), by which the Government had declared that Sardarnagar Township has contributed to the compensation pool and the properties situated therein shall form part of the compensation pool.

The Municipality had also alleged that the Administrator was the Managing Officer, but still Administrator of Sardarnagar Township has sold and transferred more than 100 pieces of land from various public street lands and/or public plots lying within the Municipal limits to private individuals in the sly fashion, and that the respondent no.3 Hiraben Somabhai, Block No.144/B, Sardarnagar and respondent no.4 Laxmandas Bhagwandas, Block No.206, Ward No.C, Sardarnagar were joined as respondents in their personal capacity and Dr. Khushalchand Keshavlal Chawla, Kanaiyalal Chelaram and Ashanand Meghrajmal were subsequently joined as respondent nos. 5 to 7.

2. In December, 1980, this court had issued notice to the respondents and granted ad-interim injunction against demolition and prosecution. The petition was thereafter admitted and ad-interim injunction was continued as interim relief.

3. Taking into consideration the fact that the disputes are essentially between public authorities -between the Sardarnagar Municipality (which is now merged with the Ahmedabad Municipal Corporation) and the State of Gujarat alongwith Managing Officer & Administrator of Sardarnagar Township and looking to the nature of the disputes and in view of the directions given by the Apex court in the case of M/s. Oil & Natural Gas Commissioner Vs. Collector of Central Excise, Judgment Today 1991(4) SC 158, it appears to the Court that it would be just and proper to dispose of this

petition with the following directions :-

(i) The State of Gujarat shall constitute a Committee consisting of three members; (1) The Secretary to the Government of Gujarat, Urban Development Department, Chairman (2) The Commissioner, Ahmedabad Municipal Corporation, and (3) The Collector, Ahmedabad.

(ii) The Committee shall consider the disputes raised by the petitioner herein in respect of allotment of lands alleged to be forming part of public street lands or other public lands. It will be open to the Committee to look into all the aspects of the matter and to consider whether any allotments made in the past are required to be reconsidered and to what extent and whether any decision taken by the Government with respect to the lands in question in the past is required to be reconsidered or whether any decision should be taken in respect of future transactions in respect of the lands in dispute. In case any past transactions are required to be reopened, notices shall be issued to the affected parties individually and also by Public Notice with wide publicity.

(iii) The State Government shall constitute Committee consisting of the above mentioned three officers within two months from the date of receipt of a certified copy of this order and the Committee shall submit its report to the State Government within six months from the date of its constitution, and thereafter, the State Government shall take the decision in the matter in accordance with law within four months from the date of receipt of the report from the Committee.

4. The petition is accordingly disposed of in terms of the aforesaid directions, with no order as to costs.

Date: 18/6/1999. -----

(ccshah) Sd/-